

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Darrian Rachel,	:	
	:	
Plaintiff(s),	:	
	:	Case Number: 1:12cv953
vs.	:	
	:	Chief Judge Susan J. Dlott
Silverton Police Department,	:	
	:	
Defendant(s).	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge J. Gregory Wehrman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on December 28, 2012 Report and Recommendation (Doc. 6). Subsequently, the plaintiff filed objections to such Report and Recommendation (Doc. 8) and defendant filed a response to the objections (Doc. 10).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Plaintiff also filed a pro se motion requesting to settle this matter out of court on January 11, 2013 (Doc. 9).

Accordingly, plaintiff's complaint (Doc. 1) is **DISMISSED with prejudice** for failure to state a claim upon which relief may be granted.

The Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of any Order adopting the Report and Recommendation will not be taken in good faith and therefore denies plaintiff

leave to appeal *in forma pauperis*. Plaintiff remains free to apply to proceed *in forma pauperis* in the Court of Appeals. See *Callihan v. Schneider*, 178 F.3d 800, 803 (6<sup>th</sup> Cir. 1999), overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6<sup>th</sup> Cir. 1997).

For the reasons stated above, plaintiff's motion to settle out of court (Doc. 9) is **DENIED AS MOOT.**

IT IS SO ORDERED.

S/Susan J. Dlott\_\_\_\_\_  
Chief Judge Susan J. Dlott  
United States District Court